

REMARKS

The final Office action mailed October 3, 2006 has been received and reviewed. All claims currently under consideration stand rejected. The application is to be amended as previously set forth. All amendments and claim cancellations are made without prejudice or disclaimer. Reconsideration is respectfully requested.

A. Claim Rejection:

Claims 4 and 5 were objected to as having improper numbering in the last Amendment. Applicants have used the correct numbering herein.

B. 35 U.S.C. § 112, 2nd ¶:

Claims 3 and 7 are rejected as assertedly being indefinite. Claim 7 is to be canceled, thus obviating the need to respond to that rejection. Applicants have amended claim 3 to remove the rejected terminology, and applicants thus respectfully request that the rejection be withdrawn.

C. 35 U.S.C. § 112, 1st ¶:

Claims 1, 7, 8, 9, and 10 were rejected as assertedly incorporating new matter. Claims 7, 8, and 10 are to be canceled, thus obviating the need to respond to that aspect of the rejection. Applicants respectfully traverse the remainder of the rejection.

Specifically, the Office asserted that

“the specification as originally filed does not describe the invention as now claimed. The original disclosure fails to specify the term ‘type B synoviocytes, or type A synoviocytes’ as now claimed; and the original disclosure fails to teach ‘said fibroblast-like cell is a fibroblast cell’ or ‘said macrophage-like cell is a macrophage cell’.”

(Office action, page 3).

The Office action continued to apply the rejection specifically to (now canceled) claims 7 and 8, but not to claims 1 and 9 (which claims do not have the terminology identified in the rejection). (Id. at pages 4-5). In view of the foregoing, applicants believe the inclusion of claims 1 and 9 under the first paragraph of 35 U.S.C. § 112 (“new matter”) rejection was a typographical error, and request that the rejection be withdrawn.

D. Obviousness-type Double Patenting:

Claims 1 through 10 were rejected as assertedly being unpatentable under the doctrine of obviousness-type double patenting over U.S. Patent 6,869,936. Claims 7, 8, and 10 are to be canceled, thus obviating the need to respond to that aspect of the rejection. Although applicants do not believe the claims to be unpatentable for any reason, in order to expedite the issuance of the instant application, applicants are submitting the requested terminal disclaimer, and request that the rejection be withdrawn.

E. 37 C.F.R. § 1.116:

The foregoing amendments should be entered as they merely cancel claims, remove issues for appeal (*e.g.*, the rejections under 35 U.S.C. § 112), and should place the application into condition for allowance.

If questions remain after consideration of the foregoing, the Office is kindly requested to contact applicants' attorney at the address or telephone number given herein.

Respectfully submitted,



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Enclosure: Terminal Disclaimer over U.S. Patent 6,869,936